

**Notice of Allowability**

Application No.

10/625,384

Applicant(s)

TRAN ET AL.

Examiner

Daniel J. Petkovsek

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to election filed June 17, 2005.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☒ The drawings filed on 23 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

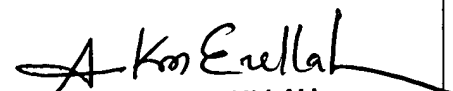
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 7/23/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

  
**AKM ENAYET ULLAH**  
**PRIMARY EXAMINER**

### DETAILED ACTION

This office action is in response to the election filed June 17, 2005.

#### *Election/Restrictions*

1. Claims 21-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group(s), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 17, 2005.
2. This application is in condition for allowance except for the presence of claims 21 to 26 non-elected without traverse. Accordingly, claims 21-26 have been cancelled.

#### *Information Disclosure Statement*

3. The prior art documents submitted by Applicant in the Information Disclosure Statements filed on July 23, 2003, have been considered and made of record (note attached copy of forms PTO-1449).

#### *Drawings*

4. The drawings filed July 23, 2003 have been acknowledged.

#### *Allowable Subject Matter*

5. Claims 1-20 are allowed. The following is an examiner's statement of reasons for allowance: the relevant prior art of record does not teach or reasonably suggest a detector for detecting a ligand in a fluid that has a *gapped waveguide* section that extends across a cantilever, and when the *ligand binds* to the cantilever, the induced bending of the cantilever (due to the ligand) causes movement in the waveguide, causing a decrease in coupling light *across the gapped waveguide*. The closest prior art of record (Lee et al. U.S.P. No. 5,807,758; Oden U.S.P. No. 6,269,685) teach cantilevered detectors that sense parameters in fluids/liquids, but the prior

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art does not teach or reasonably suggest the specific optical function in which the ligand is detected. Blanket statements in Lee et al. '758 (see column 8, lines 31-36) and Oden '685 (claim 4 "optic means") do not reasonable suggest the specific gapping optical waveguide structure with movement due to bending, as claimed by Applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Inventorship***

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, PTO-892 form reference A to de Charmoy Grey et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Petkovsek whose telephone number is (571) 272-2355. The examiner can normally be reached on M-F 8:30-5:00.

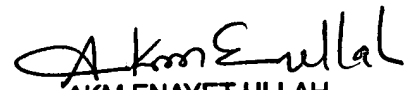
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Petkovsek  
June 23, 2005



AKM ENAYET ULLAH  
PRIMARY EXAMINER

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

1. Claims 21-26. (Canceled)

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Petkovsek whose telephone number is (571) 272-2355. The examiner can normally be reached on M-F 8:30-5:00.


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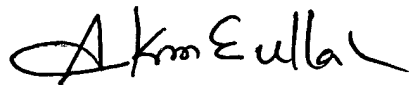
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Daniel Petkovsek  
June 23, 2005

  
AKM ENAYET ULLAH  
PRIMARY EXAMINER